

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	:	10/792,061	Confirmation No.	:	4209
Applicant	:	Scott D'Avanzo			
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Title	:	GAMING MACHINE AND METHOD OF PLAY			
TC/A.U.	:	3711			
Examiner	:	Eric Thomas			
Docket No.	:	087635.000017			
Customer No.	:	29747			

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Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

APPEAL BRIEF

Commissioner:

This Appeal Brief is being filed in response to the Notice of Appeal filed December 3, 2007 in the above-identified application.

Applicant Petitions the Commissioner to extend the time for filing the Appeal Brief five (5) months from February 3, 2008 to July 3, 2008.

The Commissioner is hereby authorized to charge \$1370 for the \$255 Appeal Brief filing fee and \$1115 extension of time fee and any underpayment of fees, or credit any overpayments, that may be required by this paper to Deposit Account No. 502466.

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1. **Real Party in Interest:**

The real party in interest is Adrenalin Gaming, LLC, the assignee of record.

Related Appeals and Interferences:

None.

Status of Claims:

Claims 1-6 and 26-30 are pending. Each of the pending claims have been rejected by the Examiner in an Office action dated October 16, 2007 from which the appellant initiates this appeal.

Appellant is appealing the rejection of claims 1-6 and 26-30.

Status of Amendments:

The amendment filed August 15, 2007 has been entered in the record.

Summary of Claimed Subject Matter:

Claim 1 recites a gaming machine comprising:

a mechanical component [paragraph [0031] identified by reference numeral 110 and shown in Figs. 1-3; paragraph [0036] identified by reference numeral 300 and shown in Figs. 3-6; paragraph [0037] identified by reference numeral 400 and shown in Figs. 7-9; and paragraph [0038] identified by reference numeral 510 and shown in Figs. 10-12], said mechanical component having a dynamic member [paragraph [0031] identified by reference numeral 120 and shown in Figs. 1-3; paragraph [0036] identified by reference numeral 305 and shown in Figs. 3-6; paragraph [0037] identified by reference numeral 410 and shown in Figs. 7-9; and paragraph [0038] identified by reference numeral 520 and shown in Figs. 10-12] operable to conceal a display device [paragraph [0033] identified by reference numeral 250 and shown in Fig. 3b; paragraph [0036] identified by reference numeral 320 and shown in Fig. 6; paragraph [0037] identified by reference numeral 430 and shown in Fig. 9; and paragraph [0038] identified by reference numeral 530 and shown in Fig. 12], said display device integrated with said mechanical component [paragraphs [0033] through [0038]; and

wherein upon activation of the mechanical component said dynamic member moves to reveal the display device, said display device operable to display a randomly generated gaming machine symbol related to a gaming machine award [paragraphs [0033] through [0038].

Claim 2 recites the machine of claim 1 wherein said mechanical component comprises one or more arms extending from said gaming machine [paragraphs [0033] through [0035] and Figs. 1-3].

Claim 3 recites the machine of claim 2 wherein said mechanical component comprises one or more hands joined to said arms [paragraphs [0033] through [0035] and Figs. 1-3].

Claim 4 recites the machine of claim 3 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award [paragraph [0033]].

Claim 5 recites the machine of claim 4 wherein upon selection of one or more of the arms, the corresponding hand opens to reveal the display device [paragraph [0033]].

Claim 6 recites the machine of claim 2 wherein the one or more arms support a watch having a display [paragraph [0035] and Figs. 1-3].

Claim 26 recites a method of playing a gaming machine comprising:

activating a mechanical component, having a dynamic member, in response to a pre-established gaming machine outcome [paragraph [0034]; paragraphs [0036] through [0038] and Figs. 1-12]; and

in response to said activation, causing said dynamic member to move to reveal a display device substantially concealed therein, wherein said display device displays a randomly generated gaming machine symbol related to a gaming machine award, said display device integrated with said mechanical component [paragraph [0034]; paragraphs [0036] through [0038] and Figs. 1-12].

Claim 27 recites the method of claim 26 wherein said mechanical component comprises one or more arms extending from said gaming machine [paragraphs [0033] through [0035] and Figs. 1-3].

Claim 28 recites the method of claim 27 wherein said dynamic member comprises one or more hands each joined to the arms [paragraphs [0033] through [0035] and Figs. 1-3].

Claim 29 recites the method of claim 28 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award [paragraph [0033]].

Claim 30 recites the method of claim 29 wherein upon selection of one or more of the hands, the corresponding hand opens to reveal the display device [paragraph [0033].

Grounds of Rejection to be Reviewed on Appeal:

Whether claims 1-6 and 26-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,609,972 to Seelig et al.

Arguments:

Claims 1-6 and 26-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,609,972 to Seelig, et al.

In general, the embodiments of the present invention relate to a gaming machine having a mechanical component with a dynamic member. Integrated with the mechanical member is a display device. The configuration of the dynamic member and the display device allows the display device to remain concealed when in a dormant state (e.g., no winning outcome) and exposed in an active state (e.g., responsive to a winning outcome). Using the embodiment shown in Figs. 1-3, the mechanical component is the pair of arms 110 extending from the gaming machine 100. The hands 120 are the dynamic members which have the display device 250 concealed therein. When the hands 120 are closed, the display device 250, is not visible. Accordingly, when an award is to be provided to the player, the hand 120 opens to reveal the display and the displayed award. Other embodiments of the present invention are described in the specification and drawings, and referenced below.

Claims 1-6 are directed to the gaming machine configuration while claims 26-30 are directed to a method of utilizing such a gaming machine. All claims stand rejected as obvious in light of Seelig.

According to the examiner, Seelig discloses a gaming machine having a mechanical component 52 and dynamic member 44 and display device 46, 48. Applicant concedes that Seelig discloses a mechanical component 52 having a dynamic member 44, and a display device 46, 48. However, Seelig does not disclose, as recited in independent system claim 1, that *the dynamic member is operable to conceal a display device wherein said display device is integrated with said mechanical component*. Nor does Seelig disclose wherein upon activation of the mechanical component *said dynamic member moves to reveal the display device*. Similarly, Seelig does not disclose, as recited in independent method claim 26, causing *said dynamic member to move to reveal a display device substantially concealed therein*, wherein said display device displays a randomly generated gaming machine symbol related to a gaming machine award, *said display*

device integrated with said mechanical component. In fact, the examiner admits that the highlighted features are not disclosed by Seelig. To the contrary, Seelig discloses a mechanical member having a dynamic member wherein the mechanical member is wholly separate from the display device. Thus, in practice, the dynamic member of Seelig acts to identify a specific display device or devices but does not conceal nor reveal an integrated display device. That is, the display devices of Seelig are always viewable (i.e., revealed) albeit blank when not activated. When activated the display devices 46, 48 display award amounts such that one such amount or display device may be identified by the dynamic member 44. Consequently, Seelig uses the dynamic member to identify one or more display devices of relevance from a larger group of display devices. However, the display devices are all visible to players at all times.

The examiner indicates that the aforementioned features wherein the dynamic member conceals and reveals the display device responsive to a gaming machine award event are obvious design choices since mechanically concealing the display compared to displaying a concealed symbol electrically or graphically would bring similar results to the operation of the game. While the results may be the same (i.e., identification of an award), such a position is short-sighted in that many patented gaming machine features are utilized to identify an award. Integrating the display devices in the mechanical member such that they are concealed until activated when they are revealed is a structural advance over Seelig. First, the claimed structure allows more versatility for the gaming machine designer. As set forth in the present application the mechanical member may take many forms including arms [Figs. 1-3], flowers [Figs. 3-6], bottles [Figs. 7-9] and a jack-in-the-box [Figs. 10-12] while the dynamic members are hands [Figs. 1-3], petals [Figs. 3-6], caps [Figs. 7-9] and clown [Figs. 10-12], respectively. Any number of designs are conceivable within the embodiments of the present invention. Second, the concealment and revelation of the display device creates additional player interest and anticipation thereby increasing play of the gaming machines. Third, the use of such mechanical components having a display device integrated into a dynamic member allows a more interactive award feature also increasing play of the gaming machine. For example, the player may pick a hand to

reveal a game award. Attracting players is the primary objective of gaming machines. The more players attracted to the gaming machines, the more revenue for the casino. The Seelig design is limited and does not offer the benefits of the embodiments of the present invention.

Based on the foregoing arguments, Seelig cannot render claims 1 or 26 obvious.

Claim 2 is a claim dependent upon claim 1 and recites the machine of claim 1 wherein said mechanical component comprises *one or more arms extending from said gaming machine*. Simply put, Seelig does not disclose one or more arms extending from said gaming machine. The examiner likens the arms of the alien pilot forming the indicator 44 (i.e., dynamic member) to the limitation of the arms extending from said gaming machine. However, the pilot arms do not extend from the gaming machine as recited in claim 2 and shown in Figs. 1-3. To the contrary, the arms form part of the indicator 44. The same arguments applicable to claim 2 apply to claim 27.

Based on the foregoing arguments, Seelig cannot render claims 2 or 27 obvious.

Claim 3 recites the machine of claim 2 wherein said mechanical component comprises one or more hands joined to said arms. Since claim 3 depends on claim 2, the arguments regarding claim 2 are relevant here as well. The same arguments applicable to claim 3 apply to claim 28.

Based on the foregoing arguments, Seelig cannot render claims 3 or 28 obvious.

Claim 4 recites the machine of claim 3 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award. Nothing in Seelig discloses the player selecting a hand to reveal a symbol related to a gaming machine award. Seelig does disclose an ability for the player to select a left or right bonus prize (i.e., display device) (col. 4, lines 19-31), but not an ability to select a hand which conceals a display device. The same arguments applicable to claim 4 apply the claim 29.

Based on the foregoing arguments, Seelig cannot render claims 4 or 29 obvious.

Claim 5 recites the machine of claim 4 wherein upon selection of one or more of the arms, the corresponding hand opens to reveal the display device. In Seelig, upon the

selection of the left or right bonus prize, a corresponding display device displays a bonus award (col. 4, lines 19-31). However, the hands on the alien pilot of Seelig are static and do nothing. Indeed, the hands of the pilot alien are fixed and cannot open or close. The same arguments applicable to claim 5 apply to claim 30.

Based on the arguments relative to claims 5 and 30, Seelig cannot render claims 5 and 30 obvious.

Claim 6 recites the machine of claim 2 wherein the one or more arms support a watch having a display. Applicant incorporates by reference the arguments relative to claims 2 and 1 herein since claim 6 is dependent therefrom.

Based on the arguments relative to claims 2 and 1, Seelig cannot render claim 6 obvious.

Consequently, claims 1-6 and 26-30 are not obvious in view of Seelig. Integrating a display device in a mechanical member such that a dynamic member is able to conceal and reveal said display device based on the gaming machine operation is a structural advancement over the prior art including Seelig.

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Claims Appendix:

1. A gaming machine comprising:

a mechanical component, said mechanical component having a dynamic member operable to conceal a display device, said display device integrated with said mechanical component; and

wherein upon activation of the mechanical component said dynamic member moves to reveal the display device, said display device operable to display a randomly generated gaming machine symbol related to a gaming machine award.

2. The machine of claim 1 wherein said mechanical component comprises one or more arms extending from said gaming machine.

3. The machine of claim 2 wherein said dynamic member comprises one or more hands joined to said arms.

4. The machine of claim 3 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award.

5. The machine of claim 4 wherein upon selection of one or more of the arms, the corresponding hand opens to reveal the display device.

6. The machine of claim 2 wherein the one or more arms support a watch having a display.

26. A method of playing a gaming machine comprising:

activating a mechanical component, having a dynamic member, in response to a pre-established gaming machine outcome; and

in response to said activation, causing said dynamic member to move to reveal a display device substantially concealed therein, wherein said display device displays a randomly generated gaming machine symbol related to a gaming machine award, said display device integrated with said mechanical component.

27. The method of claim 26 wherein said mechanical component comprises one or more

arms extending from said gaming machine.

28. The method of claim 27 wherein said dynamic member comprises one or more hands each joined to the arms.

29. The method of claim 28 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award.

30. The method of claim 29 wherein upon selection of one or more of the hands, the corresponding hand opens to reveal the display device.

Evidence Appendix:

None.

Related Proceedings Appendix:

None.